

that a longer time period is necessary. In such cases, the Regional Administrator shall notify the USES Administrator in writing of the circumstances which necessitate a longer time period, and specify that time period. If necessary, ETA staff shall conduct a follow-up visit as part of this review. If the State agency is in compliance with the JS regulations, the Regional Administrator shall fully document these facts and shall terminate the remedial actions. The Regional Administrator shall notify the State agency of his/her findings. When the case involves violations of regulations governing services to MSFWs or the JS complaint system, a copy of said notice shall be sent to the USES Administrator, who shall promptly publish the notice in the FEDERAL REGISTER. The Regional Administrator shall conduct, within a reasonable time after terminating the remedial actions, a review of the State agency's compliance to determine whether any remedial actions should be reapplied.

(e) If, upon conducting the on-site review referred to in paragraph (c) of this section, the Regional Administrator finds that the State agency remains in noncompliance, the Regional Administrator shall continue the remedial action and/or impose different additional remedial actions. The Regional Administrator shall fully document all such decisions and, when the case involves violations of regulations governing services to MSFWs or the JS complaint system, shall send copies to the USES Administrator, who shall promptly publish the notice in the FEDERAL REGISTER.

(f) (1) If the State agency has not brought itself into compliance with JS regulations within 120 working days of the initial application of remedial action, the Regional Administrator shall initiate decertification unless the Regional Administrator determines that circumstances necessitate continuing remedial action for a longer period of time. In such cases, the Regional Administrator shall notify the USES Administrator in writing of the circumstances which necessitate the longer time period, and specify the time period.

(2) The Regional Administrator shall notify the State agency by registered mail of the decertification proceedings, and shall state the reasons therefor. Whenever such a notice is sent to a State agency, the Regional Administrator shall prepare five indexed copies containing, in chronological order, all the documents pertinent to the case along with a request for decertification stating the grounds therefor. One copy shall be retained. Two shall be sent to the ETA national office, one shall be sent to the Solicitor of Labor, Attention: Associate Solicitor for Employment and Training, and, if the case involves violations of regulations governing services to MSFWs or the complaint system, one copy shall be sent to the National MSFW Monitor Advocate. The notice sent by the Regional Administrator shall be published promptly in the FEDERAL REGISTER.

§ 658.705 Decision to decertify.

(a) Within 30 working days of receiving a request for decertification, the Assistant Secretary for ETA shall review the case and shall decide whether to proceed with decertification.

(b) The Assistant Secretary shall grant the request for decertification unless he/she makes a finding that (1) the violations of JS regulations are neither serious nor continual; (2) the State agency is in compliance; or (3) the Assistant Secretary has reason to believe that the State agency will achieve compliance within 80 working days unless exceptional circumstances necessitate a longer time period, pursuant to the remedial action already applied or to be applied. (In the event the Assistant Secretary does not have sufficient information to act upon the request, he/she may postpone the determination for up to an additional 20 working days in order to obtain any available additional information.) In making a determination of whether violations are "serious" or "continual," as required by this subsection, the Assistant Secretary shall consider:

(i) Statewide or multiple deficiencies as shown by performance data and/or on-site reviews;

(ii) Recurrent violations, even if they do not persist over consecutive reporting periods, and

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(iii) The good faith efforts of the State to achieve full compliance with JS regulations as shown by the record.

(c) If the Assistant Secretary denies a request for decertification, he/she shall write a complete report documenting his/her findings and, if appropriate, instructing that an alternate remedial action or actions be applied. Copies of the report shall be sent to the Regional Administrator. Notice of the Assistant Secretary's decision shall be published promptly in the FEDERAL REGISTER, and the report of the Assistant Secretary shall be made available for public inspection and copying.

(d) If the Assistant Secretary decides that decertification is appropriate, he/she shall submit the case to the Secretary providing written explanation for his/her recommendation of decertification.

(e) Within 30 working days after receiving the report of the Assistant Secretary, the Secretary shall determine whether to decertify the State agency. The Secretary shall grant the request for decertification unless he/she makes one of the three findings set forth in § 658.705(b). If the Secretary decides not to decertify, he/she shall then instruct that remedial action be continued or that alternate actions be applied. The Secretary shall write a report explaining his/her reasons for not decertifying the State agency and copies will be sent to the State agency. Notice of the Secretary's decision shall be published promptly in the FEDERAL REGISTER, and the report of the Secretary shall be made available for public inspection and copy.

(f) Where either the Assistant Secretary or the Secretary denies a request for decertification and order further remedial action, the Regional Administrator shall continue to monitor the State agency's compliance. If the agency achieves compliance within the time period established pursuant to § 658.705(b), the Regional Administrator shall terminate the remedial actions. If the State agency fails to achieve full compliance within that time period after the Secretary's decision not to decertify, the Regional Administrator shall submit a report of his/her findings to the Assistant Secretary who shall reconsider the request for decertifica-

tion pursuant to the requirements of § 658.705(b).

§ 658.706 Notice of decertification.

If the Secretary decides to decertify a State agency, he/she shall send a Notice of Decertification to the State agency stating the reasons for this action and providing a 10 working day period during which the State agency may request an administrative hearing in writing to the Secretary. The notice shall be published promptly in the FEDERAL REGISTER.

§ 658.707 Requests for hearings.

(a) Any State agency which received a Notice of Decertification under § 658.706 or a notice of disallowance under § 658.702 may request a hearing on the issue by filing a written request for hearing with the Secretary within 10 working days of receipt of the notice. This request shall state the reasons the State agency believes the basis of the decision to be wrong, and it must be signed by the State Administrator.

(b) When the Secretary receives a request for a hearing from a State agency, he/she shall send copies of a file containing all materials and correspondence relevant to the case to the Assistant Secretary, the Regional Administrator, the Solicitor of Labor, and the Chief Administrative Law Judge of the DOL. When the case involves violations of regulations governing services to MSFWs or the ES complaint system, a copy shall be sent to the National MSFW Monitor Advocate.

(c) The Secretary shall publish notice of hearing in the FEDERAL REGISTER. This notice shall invite all interested parties to attend and to present evidence at the hearing. All interested parties who make written request to participate shall thereafter receive copies of all documents filed in said proceedings.

§ 658.708 Hearings.

(a) Upon receipt of a hearing file by the Chief Administrative Law Judge, the case shall be docketed and notice sent by registered mail, return receipt requested, to the Solicitor of Labor,